## UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION DOCKET NO. 3:18-cv-00370-FDW-DSC

CARLOS JACKSON,	)
Plaintiff,	) ) )
vs.	)
	) ORDER
CRACKER BARREL OLD COUNTRY	)
STORE, INC. and KELLY BRYANT,	)
	)
Defendants.	)
	_ )

THIS MATTER is before the Court on Plaintiff's Notice of Voluntary Dismissal without Prejudice (Doc. No. 7), which this Court deemed in a *sua sponte* order a motion to dismiss without prejudice pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure (Doc. No. 9). The Court further ordered Defendants, who have appeared, to respond to Plaintiff's motion to dismiss without prejudice by August 21, 2018 or file a notice of stipulation of dismissal without prejudice of all claims. In accordance with the Court's order, Defendants Cracker Barrel Old Country Store, Inc. and Kelly Bryant ("Defendants") filed their response consenting to the dismissal of this action. (Doc. No. 19 at 2). Defendants also request the Court pursuant to Federal Rule of Civil Procedure 42(d) impose the following conditions on the dismissal of the action:

- If Plaintiff files an action based on or including the same claims against either Cracker
  Barrel Old Country Store, Inc. or Kelly Bryant, regardless of venue, he must pay
  Defendants' costs of \$446.79 incurred in this action; and
- 2. Any subsequent action shall be stayed until Plaintiff has complied with this Court's order.

(Doc. No. 10 at 3).

As Defendants have consented, Plaintiff's motion to dismiss, captioned as Notice of

Voluntary Dismissal without Prejudice, (Doc. No. 7) is granted. Defendants request for

conditions, however, is denied. Rule 41(d) contemplates an order for the reimbursement of fees

and a stay by the court of the subsequent action, not the court of the original voluntarily dismissed

action. The court where "a plaintiff who previously dismissed an action . . . files an action based

on or including the same claim against the same defendant" is the appropriate court to order and

enforce the relief requested by Defendants. Fed. R. Civ. P. 41(d).

IT IS THEREFORE ORDERED Plaintiff's motion to dismiss, captioned as Notice of

Voluntary Dismissal without Prejudice, (Doc. No. 7) is granted. Plaintiff's claims are hereby

DISMISSED WITHOUT PREJUDICE. The Clerk is respectfully directed to CLOSE THE CASE

and SEND a copy of this Order to Plaintiff's address of record.

IT IS SO ORDERED.

Signed: August 22, 2018

Frank D. Whitney

Chief United States District Judge